

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

KENNETH A. ZIMMERMAN, NICHOLAS  
D. KMOCH,

Defendants.

**4:14CR3147**

**ORDER**

The defendants have moved to continue the trial currently set for February 17, 2015. (Filing Nos. 21 and 22). As explained in the Zimmerman's motion, defense counsel is not available during the current trial setting. As explained in the Kmoch's motion, this defendant is currently engaged in plea discussions. The motions to continue are unopposed. Based on the showing set forth in the motions, the court finds the motions should be granted. Accordingly,

IT IS ORDERED:

- 1) The defendants' motions to continue the trial currently set for February 17, 2015. (Filing Nos. 21 and 22), are granted.
- 2) **As to both defendants**, the trial of this case is set to commence before the Honorable John M. Gerrard, United States District Judge, in Courtroom 1, United States Courthouse, Lincoln, Nebraska, at 9:00 a.m. on March 23, 2015, or as soon thereafter as the case may be called, for a duration of four (4) trial days. Jury selection will be held at commencement of trial.
- 3) Based upon the showing set forth in the defendants' motions and the representations of counsel, the Court further finds that the ends of justice will be served by continuing the trial; and that the purposes served by continuing the trial date in this case outweigh the interest of the defendants and the public in a speedy trial. Accordingly, **as to both defendants**, the additional time arising as a result of the granting of the motion, the time between today's date and March 23, 2015, shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act, because despite counsel's due diligence, additional time is needed to adequately prepare this case for trial and failing to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(1), (h)(6) & (h)(7).

February 9, 2015.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge